IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4420 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BALMUKUND CHHOTALAL PATEL

Versus

STATE OF GUJARAT 3RD SPECIAL LAND ACQUISITION

Appearance:

MR NILESH A PANDYA for Petitioner

MR PREMAL JOSHI, AGP, for Respondent No. 1, 2

MR JM BAROT for Respondent No.3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/09/2000

ORAL JUDGEMENT

1. The petitioner was dismissed from the services under the order dated 12-3-1999. This order has been challenged by filing an appeal before the respondent No.2 but as the respondent No.2 was not available, that is,

the office was lying vacant, the petitioner filed this special civil application. Now, the respondent No.2 is available. In view of the decision of the Hon'ble Supreme Court in the case of Bombay Metropolitan Region Development Authority vs. Gokak Patel Volkart Ltd & Ors. reported in JT 1995 (1) SC 155, this petition is not maintainable and the same is dismissed. Rule discharged.

2. The petitioner's counsel prays that a direction may be given to the respondent No.2 to decide the appeal of the petitioner expeditiously. It is a matter to be taken care of by the respondent No.2 and the petitioner is free to apply for early hearing of the appeal by filing an application. Learned counsel for the petitioner then submitted that the respondent No.2 may be given direction to decide the application filed by the petitioner for grant of interim relief. It is not a case where any interim relief can be granted. The petitioner is dismissed from the services and by way of interim relief, he cannot be taken back in service and the reason is very obvious. Otherwise it will amount to granting of final relief and secondly, by declining the same, it will not result in causing any irreparable injury to the petitioner which cannot be compensated in terms of money. If the petitioner succeeds in the appeal, he will be given all benefits but not the benefits by way of interim relief, more so, of his reinstatement in service.

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